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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/070,528 | 12/02/2002 | Peter Planki | 2406400-2 | 7215 |

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SPENCER, FANE, BRITT & BROWNE
1000 WALNUT STREET
SUITE 1400
KANSAS CITY, MO 64106-2140

EXAMINER

LOHN, JOSHUA A

ART UNIT

PAPER NUMBER

2114

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/070,528 | Applicant(s) PLANKI ET AL. | |
| | Examiner Joshua A Lohn | Art Unit 2114 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b)(4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text. The current abstract, labeled "Summary" must be deleted from the claim listing page and submitted on a separate sheet as specified above.

Claim Objections

Claims 7 and 8 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim can not depend from another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Atkinson, United States Patent, 6,029,119, filed January 16, 1996.

As per claim 1, Atkinson discloses a method for monitoring and controlling the operational performance of a computer or processing system for detecting operational parameters of individual components (Atkinson, col. 1, lines 36-39) as well as of environmental components of the computer or processor system (Atkinson, col. 3, line 16, through col. 4, line 15, where the

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indirect inputs act as the environmental components). Atkinson also teaches comparing the detected operational parameters and environmental parameters with predetermined limit values (Atkinson, col. 4, lines 35-51, col. 5, lines 1-18, and figures 3 and 4); determining, if predetermined limit values are exceeded or fallen below of by one or several of said detected operational parameters and environmental parameters (Atkinson, col. 4, lines 52-62). Atkinson also discloses determining an operational event on basis of said limit values that have been exceeded or fallen below of; selecting a reaction corresponding to said determined operational event from a number of predetermined reaction patterns; and transmitting a control command to alter the operational performance corresponding to said selected reaction to said computer or processor system (Atkins, col. 4, lines 52-62, and col. 6, lines 36-54, where the control command executes the cooling options deemed necessary).

As per claim 2, Atkinson discloses that the detected operational parameters or environmental parameters are absolute measured values as well as the temporal change of said measured value (Atkinson, col. 3, lines 16-17, and col. 3, lines 66-67).

As per claim 3, Atkinson discloses that besides the transmission of the control command corresponding to the selected reaction also a corresponding information signal is transmitted (Atkinson, col. 3, lines 16-19, where the interrupt alarm is an informational signal).

As per claim 4, Atkinson discloses a device for monitoring and controlling the operational performance of a computer or processor system with first sensors for detecting operational parameters of individual components of said computer or processor system (Atkinson, col. 1, lines 36-39); second sensors for detecting environmental parameters of said

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computer or processor system (Atkinson, col. 3, line 16, through col. 4, line 15, where the indirect inputs are the environmental parameters); a monitoring unit for comparing said detected operational and environmental parameters with limit values stored in a first storage as well as for detecting, if one or several limit values are being exceeded or fallen below of (Atkinson, col. 4, line 35, through col. 5, line 18, and figures 3 and 4). Atkinson also discloses means for generating a determined operational event message on basis of said limit values that have been exceeded or fallen below of (Atkinson, col. 5, lines 13-24, where the event message is the output from the table), and a control unit for receiving said operational event message as well as for selecting and transmitting a control command corresponding to said operational event message to said computer and processor system from a storage containing a number of predetermined reaction patterns (Atkinson, col. 6, lines 36-54, where control commands inherently exist in the ability to adjust the system parameters as indicated in the response table of figure 4).

As per claim 5, Atkinson discloses that said detected operational parameters or environmental parameters are absolute measured values as well as the temporal changes of said measured value (Atkinson, col. 3, lines 16-17, and col. 3, lines 66-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Atkinson in view of Skeie, United States Patent number 5,500,940, published March 19, 1996.

As per claim 6, Atkinson fails to disclose the addition of an optical or acoustic output means for outputting a message.

Skeie discloses a device that comprises an optical or acoustic output means for outputting a message corresponding to an operational event message and/or transmitted control command (Skeie, col. 6, lines 63-67, where user notification would inherently be an optical or acoustic output).

It would have been obvious to one skilled in the art at the time of the invention to include the user notification means of Skeie in the invention of Atkinson.

This would have been obvious because Atkinson is interested in the effects of escalating problems and how to repair them (Atkinson, figure 4). Atkinson does not mention any aspect of how the detection and repair would affect the user. Skeie also discloses an interest in escalating problems in a computer system (Skeie, col. 6, lines 8-26). Skeie further states the importance of data availability to the user (Skeie, col. 6, lines 53-55). The solutions disclosed by Atkinson would alter data availability through solutions in a similar way to the failures of Skeie. It would have been obvious to give the user the important availability information, provided by Skeie, in the system of Atkinson to allow the user to be aware of any potential problems from the solutions provided by Atkinson.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is provided on form PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua A Lohn whose telephone number is (571) 272-3661. The examiner can normally be reached on M-F 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAL


SCOTT BADERMAN
PRIMARY EXAMINER